

SOUTH AFRICAN ROOIBOS IP INNOVATION TO BE PRESENTED AT WIPO CONGRESS IN GENEVA

The extensive trademarks and patents protecting two of South Africa's unique botanical treasures, namely Rooibos and Honeybush, has caught the attention of the international community where the Minister of Home Affairs, the Honourable, Malusi Gigaba has been invited to deliver a keynote address at this year's 56th General Assembly of the World Intellectual Property Organisation (WIPO).

It's the first time that SA has been asked to present in respect of trademarks, patents and IP innovation at this prestigious conference, which commenced yesterday in Geneva, Switzerland, and will run till the 11th of October.

Ernest du Toit, a Director of the SA Rooibos Council and CEO of the world famous, Annique range of Rooibos teas, skincare and health products, was approached by the Companies and Intellectual Property Commission (CIPC), which functions under the auspices of the DTI, to present information on the Annique Rooibos health and beauty product range and on the Audacia Rooibos and Honeybush-wooded wines, owned and developed by Trevor Strydom.

Du Toit says he is honoured to participate in the symposium, which will specifically look at how patented and trademarked technologies remain critical to ensuring long-term economic growth for both developed and developing nations.

"Rooibos and Honeybush were specifically singled out as SA treasures since they are both endemic to SA and are among the most widely commercially cultivated botanical species originating in South Africa with more than 300 trademarks and 20 patents to their names," remarks du Toit.

Red Dawn IP Holdings – owned by Audacia Wines and KWV – has developed a method of preserving alcoholic beverages using indigenous Rooibos and Honeybush wood-chips, instead of currently accepted sulphite preservatives, which has also intrigued the international IP community.

The innovation by the Stellenbosch-based company is a huge potential game changer in the alcoholic beverage industry, given that Rooibos and Honeybush toasted wood-chips not only impart unique and highly distinctive flavours to a wide range of beverage types, including wine, beer and cider, but also release antioxidants which helps to preserve these beverages, eliminating the use of synthetic preservatives, such as sulphites. Audacia has already created a series of "No Sulphites or Preservatives Added" wines, as well as low calorie wines, using this breakthrough technology.

Trevor Strydom, Director of Red Dawn IP Holdings, who has lodged patent applications in 83 jurisdictions worldwide, for the exclusive use by South African alcoholic beverage producers, to create wine, beer and cider, using indigenous Rooibos and Honeybush materials in varying forms, says safeguarding these local resources is crucial to developing jobs and businesses, and to sustain a vibrant economy.

"Patent protection and trademark registration of our products is particularly significant given that the European Union finally recognised both Rooibos and Honeybush as Geographic Indicators (GI), in 2014. This means that South Africa and its local manufacturers now have exclusive ownership of Rooibos and Honeybush trademarks and IP, and that these names will only be applicable to products that come from South Africa, which are officially approved by the DTI, guaranteeing quality control," says Strydom.

The DTI has also since then declared Rooibos and Honeybus has prohibited marks under South Africa's Merchandise Marks Act, making unauthorised use a criminal offence. Traditional Knowledge legislation, which is in line with the Nagoya Protocol, is also currently being promulgated in South Africa.

Strydom says it's Audacia's aim to bring something new and fresh into the overtraded wine, cider and beer industries.

"Rooibos is an iconic local phenomenon and we're proud to be using its incredible natural properties to create a range of original and distinctive alcoholic beverages, that are healthier as well. Our innovation is also significant from a sustainability perspective, as we use a byproduct of the Rooibos and Honeybush tea industries, (chipped wood stems) for use in making wine, beer and cider. It replaces expensive imported oak wood derivatives like staves, chips, powders and liquid tannin extracts.

"We are totally committed to creating and maintaining a sustainable future for all South Africans, operating in these industries. We seek to achieve the aforementioned objectives by sharing this intellectual property with all South African alcoholic beverage producers, thereby giving them the ability to be able to produce unique patent protected products, with 'real', unique customer value propositions, that they will be able to promote under license for the duration of the respective intellectual property terms, in the jurisdictions where the patent is registered and in force, says Strydom.

In addition to the exhibition, South Africa will also be hosting a grand reception in Geneva at the General Assembly, which will be opened by South Africa's Permanent Representative to the UN in Geneva, Nozipho Mxakato-Diseko. The theme of the reception is "South African Treasures". As part of this event, all delegates will be gifted with a bottle of Audacia Rooibos Wooded Wine – a "No Sulphites or Preservatives Added" Shiraz 2014, as well as Rooibos tea and skincare products from Annique Health and Beauty.

ENDS

Notes to editor:

- Rooibos was first trademarked in **1994** in the US by Dr Annique Theron, but she later sold the right to a company called Burke International that registered the name 'Rooibos' as a trademark with the US Patent and Trademark Office. As the use of Rooibos became more popular, Burke demanded that companies either pay fees for use of the name or cease its use.
- In **2005**, the American Herbal Products Association and a number of import companies succeeded in defeating the trademark through petitions and lawsuits. The matter was settled out of court when Burke surrendered the name to the public domain.
- In **2013**, an application was made by a French company to register Rooibos as a trademark in respect of beverages in France. The application attracted the attention of DTI Minister, Rob Davies who strongly opposed the application and exercised various legal options to strengthen the protection of the Rooibos name in SA.
- Later in **September 2013**, the SA government took the first major step in protecting the use of the term 'Rooibos'. In the Government Gazette (at that time), Davies published the final Merchandise Marks Act prohibition notice on the labelling of Rooibos products and rules of use for 'Rooibos', 'red bush', 'rooibostee', 'rooibos tea', 'rooitee' and 'rooibosch'.
- The notice set out the terms under which the Rooibos mark could be used – the name ROOIBOS can only be used to refer to the dry product, infusion or extract that is 100% pure Rooibos – derived from *Aspalthus Linearis* – and that has been cultivated or wild-harvested in the geographic area as described in this

application. The rules do allow for Rooibos to be blended with teas, infusions and other blends.

- In **2014**, Rooibos tea was granted geographical indication (GI) status in the EU. This gave Rooibos tea manufacturers of South Africa full ownership of the Rooibos name. The same trademark protection given to Rooibos applies to Honeybush, another tea grown only in the Cape region. GI status meant that only products produced in those areas that are approved by the industry, could be marketed under those names. This was significant, given the popularity Rooibos had acquired in Europe in recent years.
- **In June this year**, an Economic Partnership Agreement (EPA) was signed between the European Union and six Southern African Development Community (SADC) countries, namely South Africa, Botswana, Lesotho, Mozambique, Namibia and Swaziland. For SA, the EPA extended the existing market access to new products such as fruit and wine while further protecting the GI status of, among others, Rooibos and Honeybush.